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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 140722613-4613-01]

RIN 0648-BE31

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic;
Coastal Migratory Pelagic Resources in the Gulf of Mexico and
Atlantic Region; Framework Amendment

AGENCY: National Marine Fisheries Service (NMFS), National
Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS proposes to implement management measures described in a framework amendment to the Fishery Management Plan for the Coastal Migratory Pelagic (CMP) Resources in the Gulf of Mexico and Atlantic Region (FMP) (Framework Amendment), as prepared and submitted by the South Atlantic and Gulf of Mexico Fishery Management Councils (Councils). If implemented, this rule would modify the annual catch limits (ACLs) for Atlantic and Gulf of Mexico (Gulf) migratory group Spanish mackerel and modify the recreational annual catch target (ACT) for Atlantic migratory group Spanish mackerel, based on the results of the most recent stock assessments for Gulf and

Atlantic migratory group Spanish mackerel. The Framework Amendment would also update the optimum yield (OY) for Atlantic migratory group Spanish mackerel. The purpose of this rule is to ensure ACLs are based on the best scientific information available and to ensure overfishing does not occur for the Spanish mackerel resource.

DATES: Written comments must be received on or before [insert date 30 days after date of publication in the FEDERAL REGISTER].

ADDRESSES: You may submit comments on the proposed rule, identified by "NOAA-NMFS-2014-0075" by any of the following methods:

- **Electronic Submission:** Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2014-0075, click the "Comment Now!" icon, complete the required fields, and enter or attach your comments.
- **Mail:** Submit written comments to Karla Gore, Southeast Regional Office, NMFS, 263 13th Avenue South, St. Petersburg, FL 33701.

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be

posted for public viewing on www.regulations.gov without change. All personal identifying information (e.g., name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter "N/A" in the required fields if you wish to remain anonymous). Attachments to electronic comments will be accepted in Microsoft Word, Excel, or Adobe PDF file formats only.

Electronic copies of the Framework Amendment, which includes an environmental assessment, an initial regulatory flexibility analysis (IRFA) and a regulatory impact review, may be obtained from the Southeast Regional Office Web Site at <http://sero.nmfs.noaa.gov>.

FOR FURTHER INFORMATION CONTACT: Karla Gore, telephone: 727-824-5305, or e-mail: karla.gore@noaa.gov.

SUPPLEMENTARY INFORMATION: The CMP fishery of the South Atlantic and the Gulf is managed under the FMP. The FMP was prepared by the Councils and implemented through regulations at 50 CFR part 622 under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act).
Background

Southeast Data, Assessment, and Review 28 (SEDAR 28) included benchmark assessments for Atlantic and Gulf migratory

group Spanish mackerel that were completed in 2012 (and revised in 2013). In 2013, the Councils' Scientific and Statistical Committees (SSCs) reviewed the results of the assessments. Both SSCs accepted the benchmark assessments as representing the best available scientific information on the status of Spanish mackerel in Gulf and South Atlantic waters and considered the assessments appropriate for management decisions. In October 2013, the South Atlantic Fishery Management Council's (South Atlantic Council) SSC recommended an overfishing limit (OFL) of 7.03 million lb (3.19 million kg) for the 2014-2015 fishing year, 6.62 million lb (3.0 million kg) for the 2015-2016 fishing year, and 6.52 million lb (2.96 million kg) for the 2016-2017 fishing year for Atlantic migratory group Spanish mackerel. The South Atlantic Council's SSC also recommended a revised acceptable biological catch (ABC) of 6.063 million lb (2.750 million kg) for the 2014-2015 through 2016-2017 fishing years. In August 2013, the Gulf of Mexico Fishery Management Council (Gulf Council) received and accepted the Gulf Council's SSC recommendations for the Gulf Spanish mackerel OFL and ABC for the 2013-2014 through 2016-2017 fishing years. The OFL was set at 14.4 million lb (6.5 million kg) for the 2013-2014 fishing year, 12.9 million lb (5.9 million kg) for 2014-2015 fishing year, 12.0 million lb (5.4 million kg) for the 2015-2016 fishing

year, and 11.5 million lb (5.2 million kg) for the 2016-2017 fishing year. For Gulf migratory group Spanish mackerel, the Gulf Council's SSC recommended ABCs at 14.2 million lb (6.4 million kg) for the 2013-2014 fishing year, 12.7 million lb (5.8 million kg) for the 2014-2015 fishing year, 11.8 million lb (5.3 million kg) for the 2015-2016 fishing year, and 11.3 million lb (5.1 million kg) for the 2016-2017 fishing year.

Based on these ABC recommendations, the Councils decided to revise the ACLs for Spanish mackerel. Therefore, the Framework Amendment would increase the ACL for Atlantic migratory group Spanish mackerel from 5.69 million lb (2.58 million kg) to 6.063 million lb (million kg). Based on the current allocations, the ACL would be allocated 55 percent to the commercial sector and 45 percent to the recreational sector. The proposed rule would also include the ACT for Atlantic migratory group Spanish mackerel. The Framework Amendment would increase the Gulf migratory group Spanish mackerel ACL to 12.7 million lb (5.76 million kg) for the 2014-2015 fishing year, 11.8 million lb (5.35 million kg) for the 2015-2016 fishing year, and 11.3 million lb (5.13 million kg) for the 2016-2017 fishing year and subsequent fishing years. The Framework Amendment would also update the OY for Atlantic migratory group Spanish mackerel.

Management Measures Contained in this Proposed Rule

This proposed rule would revise the commercial and recreational ACLs and the recreational ACT for Atlantic migratory group Spanish mackerel, and revise the stock ACL for Gulf migratory group Spanish mackerel. Additionally, this proposed rule would revise the adjusted commercial quota for Atlantic migratory group Spanish mackerel, based on the revised commercial ACL (commercial quota).

Revise the Commercial and Recreational ACLs and Recreational ACT for Atlantic Migratory Group Spanish Mackerel

This proposed rule would increase the commercial ACL (equal to the commercial quota) for Atlantic migratory group Spanish mackerel to be 3.33 million lb (1.51 million kg) and the recreational ACL to be 2.727 million lb (1.236 million kg). The recreational ACT would increase to 2.364 million lb (1.072 million kg).

Revise the Stock ACL for Gulf Migratory Group Spanish Mackerel

This proposed rule would increase the stock ACL for Gulf migratory group Spanish mackerel to 12.7 million lb (5.76 million kg) for the 2014-2015 fishing year, 11.8 million lb (5.35 million kg) for the 2015-2016 fishing year, and 11.3 million lb (5.13 million kg) for the 2016-2017 fishing year and subsequent fishing years.

Revise the Adjusted Quota for Atlantic Migratory Group Spanish

Mackerel

This proposed rule would revise the adjusted commercial quota for Atlantic migratory group Spanish mackerel from 2.88 million (1.31 million kg) to 3.08 million lb (1.40 million kg), based on the increase of the commercial ACL (commercial quota) for Atlantic migratory group Spanish mackerel. The adjusted quota is the quota for Atlantic migratory group Spanish mackerel reduced by an amount calculated to allow continued harvests of Atlantic migratory group Spanish mackerel at the rate of 500 lb (227 kg) per vessel per day for the remainder of the fishing year after the adjusted quota is reached. Total commercial harvest is still subject to the ACL and accountability measures.

Additions to Codified Text

This proposed rule would also include additions to the introductory paragraphs for the CMP Quotas and ACLs/AMs/ACTs sections (50 CFR 622.384 and 50 CFR 622.388) to include language that all weights are in round and eviscerated weight combined, unless specified otherwise. This language is being added to clarify that the quotas, ACLs, and ACTs are established using landings that are documented in both round weight (whole weight) and eviscerated weight (gutted weight).

Classification

Pursuant to section 304(b)(1)(A) of the Magnuson-Stevens Act, the Assistant Administrator has determined that this proposed rule is consistent with the Framework Amendment, the FMP, the Magnuson-Stevens Act and other applicable law, subject to further consideration after public comment.

This proposed rule has been determined to be not significant for purposes of Executive Order 12866.

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration (SBA) that this rule, if adopted, would not have a significant economic impact on a substantial number of small entities. The factual basis for this determination is as follows:

This proposed rule is expected to directly affect commercial fishermen and for-hire operators in the South Atlantic, Mid-Atlantic, and Gulf. The SBA established size criteria for all major industry sectors in the U.S. including fish harvesters and for-hire operations. A business involved in fish harvesting is classified as a small business if independently owned and operated, is not dominant in its field of operation (including its affiliates), and its combined annual receipts are not in excess of \$20.5 million (NAICS code 114111, finfish fishing) for all of its affiliated operations worldwide.

For for-hire vessels, other qualifiers apply and the annual receipts threshold is \$7.5 million (NAICS code 487210, fishing boat charter operation). The SBA periodically reviews and changes, as appropriate, these size criteria. On June 12, 2014, the SBA issued an interim final rule revising the small business size standards for several industries effective July 14, 2014 (79 FR 33647). That rule increased the size standard for commercial finfish harvesters from \$19.0 million to \$20.5 million and the size standard for for-hire vessels from \$7.0 million to \$7.5 million.

From the 2007-2008 through 2011-2012 fishing years, an annual average of 387 vessels with valid commercial Spanish mackerel permits landed at least 1 lb (0.6 kg) of Atlantic migratory group Spanish mackerel. These vessels generated average dockside revenues of approximately \$11.99 million (2011 dollars) from all species caught during the fishing year. Each vessel, therefore, generated an average of approximately \$31,000 in gross revenues. For the same period, an annual average of 208 vessels with valid commercial Spanish mackerel permits landed at least 1 lb (0.6 kg) of Gulf migratory group Spanish mackerel. These vessels generated dockside revenues of approximately \$10.33 million (2011 dollars) from all species caught during the fishing year. Each vessel, therefore,

generated an average of approximately \$49,700 in gross revenues. Based on revenue information, all commercial vessels affected by the rule can be considered small entities.

From the 2007-2008 through 2011-2012 fishing years, an annual average of 1,813 vessels had valid or renewable South Atlantic charter/headboat permits for CMP fish. As of May 2, 2014, 1,395 vessels held these permits and about 77 are estimated to have operated as headboats in 2014. For the same period, an annual average of 1,424 vessels had valid or renewable Gulf charter/headboat permits for CMP fish. As of May 2, 2014, 1,202 vessels held these permits and about 67 are estimated to have operated as headboats in 2014. The for-hire fleet consists of charter boats, which charge a fee on a vessel basis, and headboats, which charge a fee on an individual angler (head) basis. Average annual revenues (2011 dollars) for charter boats are estimated to be \$53,730 for Texas vessels, \$110,977 for Louisiana vessels, \$59,960 for Mississippi and Alabama vessels, \$81,264 for West Florida vessels, \$126,032 for East Florida vessels, \$53,443 for Georgia vessels, \$100,823 for South Carolina vessels, and \$101,959 for North Carolina vessels. For headboats, the corresponding estimates are \$247,629 for Texas, Louisiana, Mississippi, and Alabama vessels, \$232,884 for West Florida vessels, \$209,507 for East Florida vessels, and

\$153,848 for Georgia, South Carolina, and North Carolina vessels. Revenue figures for combined states are aggregated to avoid disclosure of confidential information. For the Northeast (states north of North Carolina), the average gross revenues are approximately \$220,755 and \$28,884 for headboats and charter vessels, respectively. The Northeast information is not currently available on a state by state basis. Based on these average revenue figures, all for-hire operations that would be affected by the rule can be considered small entities.

This proposed rule would increase the commercial ACL (equal to the commercial quota), recreational ACL, and recreational ACT for Atlantic migratory group Spanish mackerel. This action is expected to slightly increase the revenues and possibly profits for commercial and for-hire vessels. The only other alternative for this action is to retain the current commercial and recreational ACL and recreational ACT (no action alternative), which would lead to forgoing the economic benefits that would accrue from the proposed rule.

As a consequence of the commercial ACL (quota) increase for Atlantic migratory group Spanish mackerel, this proposed rule would increase the adjusted quota before the current 500 lb (227 kg) trip limit would take effect. This would likely allow for a longer commercial fishing season before this trip limit applies,

thus generating more revenues for commercial vessels.

This proposed rule would also increase the stock ACL for Gulf migratory group Spanish mackerel. In principle, this is expected to substantially increase the revenues and possibly profits for commercial and for-hire vessels because the proposed stock ACL would be more than twice the current stock ACL.

However, the current stock ACL for Gulf migratory group Spanish mackerel has not been met for the 2000-2001 through 2013-2014 fishing years, so the potential increase in economic benefits may not be realized in the near future. The only other alternative to this action is to retain the current stock ACL for Gulf migratory group Spanish mackerel, which would result in no changes in the economic impact to impacted entities.

This proposed rule would also revise the introductory paragraphs for the CMP Quotas and ACLs/AMs/ACTs sections to include language that all weights are given in round or eviscerated weight unless specified otherwise. This would not affect the reporting requirements as this is the current rule but located in another section of the regulations.

No duplicative, overlapping, or conflicting Federal rules have been identified. In addition, no new reporting, record-keeping, or other compliance requirements are introduced by this proposed rule. Accordingly, this rule does not implicate the

Paperwork Reduction Act.

The information provided above supports a determination that this rule would not have a significant economic impact on a substantial number of small entities. Because this rule, if implemented, is not expected to have significant economic impact on any small entities, an initial regulatory flexibility analysis is not required and none has been prepared.

List of Subjects in 50 CFR Part 622

Annual catch limit, Annual catch target, Fisheries, Fishing, Gulf, Quotas, South Atlantic, Spanish mackerel.

Dated: July 28, 2014.

Samuel D. Rauch III,

Deputy Assistant Administrator for Regulatory Programs,
National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 622 is proposed to be amended as follows:

PART 622--FISHERIES OF THE CARIBBEAN, GULF OF MEXICO, AND SOUTH ATLANTIC

1. The authority citation for part 622 continues to read as follows:

Authority: 16 U.S.C. 1801 et seq.

2. In § 622.384, a sentence is added at the end of the introductory paragraph and paragraph (c)(2) is revised to read as follows:

§ 622.384 Quotas.

* * * All weights are in round and eviscerated weight combined, unless specified otherwise.

* * * * *

(c) * * *

(2) Atlantic migratory group. The commercial quota for the Atlantic migratory group of Spanish mackerel is 3.33 million lb (1.51 million kg).

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3. In § 622.385, the first sentence in paragraph (b)(2) is revised to read as follows:

§ 622.385 Commercial trip limits.

* * * * *

(b) * * *

(2) For the purpose of paragraph (b)(1)(ii) of this section, the adjusted quota is 3.08 million lb (1.40 million kg). * * *

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4. In § 622.388, an introductory paragraph is added and

paragraph (c)(3) and the last two sentences of paragraph

(d)(2)(i) are revised to read as follows:

§ 622.388 Annual catch limits (ACLs), annual catch targets (ACTs), and accountability measures (AMs).

All weights are in round and eviscerated weight combined, unless specified otherwise.

* * * * *

(c) * * *

(3) The stock ACL for Gulf migratory group Spanish mackerel is 12.7 million lb (5.76 million kg) for the 2014 to 2015 fishing year, 11.8 million lb (5.35 million kg) for the 2015 to 2016 fishing year, and 11.3 million lb (5.13 million kg) for the 2016 to 2017 fishing year and subsequent fishing years.

(d) * * *

(2) * * *

(i) * * * The recreational ACT for the Atlantic migratory group is 2.364 million lb (1.072 million kg). The recreational ACL for the Atlantic migratory group is 2.727 million lb (1.236 million kg).

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Date: 07/31/2014]